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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,651	12/30/2003	Michael B. Palmer	6898P001	6899

8791 7590 05/18/2005

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EXAMINER

BARNEY, SETH E

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

<b>Office Action Summary</b>	<b>Application No.</b> 10/748,651	<b>Applicant(s)</b> PALMER, MICHAEL B.	
	<b>Examiner</b> Seth Barney	<b>Art Unit</b> 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 March 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,161,779 to Oyler et al.

Regarding claim 1, Oyler discloses a chemical additive dispensing device for attachment to a sprinkling system having:

-a fluid diversion housing having an input port of a first section of an outlet pipe extending from a water source of the irrigation system and an output port for receipt of a second section of the outlet pipe that provides fluid to the rest of the irrigation system, the input port and the output port being in fluid communication such that the first and second sections of the outlet pipe are in fluid communication with one another. See Figure 4 and column 6 lines 20 to 40.

-a container (12) coupled to the fluid diversion housing, the container to store a chemical additive. See Figure 4 and column 5 lines 50 to 64.

-an in-flow channel (32) formed within the fluid diversion housing in fluid communication with the input port and the container for diverting fluid from the input port into the container. See Figure 4.

-an out-flow channel (34) formed within the fluid diversion housing in fluid communication with the output port and the container for diverting fluid from the container into the output port. See Figure 4.

-wherein, in operation, the container is filled with fluid from the in-flow channel such that the fluid mixes with the chemical additive, and once the container is filled with fluid, the mixture of fluid and chemical additive is diverted through the out-flow channel to the output port such that the fluid chemical additive mixture is distributed to the rest of the irrigation system. See column 6 line 41 to column 7 line 14.

Regarding claim 2, the diversion housing includes a top plate (54) and a bottom plate (14), the bottom plate having the in-flow channel and the out-flow channel formed therein, the top plate and the bottom plate being secured to one another. See Figure 4.

Regarding claim 4, the housing is made of polypropylene. See column 4 lines 19 and 20.

Regarding claim 6, the container is removeably coupled to the fluid diversion housing. See Figure 4 and column 6 lines 45 to 48.

Regarding claim 7, the chemical additive is a fertilizer.

Regarding claim 8, the fertilizer is in the form of granular particles. See column 4 line 16.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 9, 10, 11, 13, 15-18, 20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,779 to Oyler et al. in view of U.S. Patent No. 6,540,156 to Martin.

Regarding claims 9, 10, 11, 13, 15, and 16, Oyler discloses all of the limitation of the claim except for a station having a valve to control the flow of fluid from an inlet pipe; an outlet pipe to dispense the fluid dependant on the position of the valve, and a diverter knob. Martin discloses an irrigation system having valves (32), pipes, and a diverter (38). The apparatus of Oyler can be used with an irrigation system as taught by Oyler in column 7, lines 35 and 36. It would have been obvious to connect the fertilizer dispensing apparatus of Oyler with the system of Martin in order to distribute the fertilizer to desired locations and control the flow to those locations.

Regarding method claims 17, 18, 20, 22, and 23 the apparatus of Oyler as modified by Martin is capable of performing the method or steps recited in the claims.

3. Claims 3, 5, 12, 14, 19, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,161,779 to Oyler et al. in view of U.S. Patent No. 6,540,156 to Martin.

Oyler as modified by Martin does not disclose that the housing, top, and bottom plates are formed by injection molding. It would have been obvious to one having

ordinary skill in the art at the time the invention was made to form the parts of Oyler et al. by injection molding because it is an art recognized practice to form plastic parts through injection molding.

### ***Response to Arguments***

4. Applicant's arguments filed March 14, 2005 have been fully considered but they are not persuasive. In regards to claims 1-9, Oyler directly teaches the use of the dispensing apparatus in combination with an irrigation system. "...the fertilizer in the mixing chamber 22 is dissolved in water and the resultant water/chemical mixture is thereafter advanced to an external sprinkler or the like via the outlet garden house 46." See column 7, lines 35 and 36. Since the water/chemical mixture is being sent to an external sprinkler, Oyler clearly teaches the use of the dispensing apparatus with an irrigation system. In regards to the argument by applicant that claim 1 of the instant application recites pipes and not hoses, each instance of the pipe recitation follows a "for" statement and is only functional language. Oyler meets the positive recitation of the input port and output port. Therefore the previous rejections of claims 1, 2, 4, and 6-8 under 35 U.S.C. 102(b) and 3, 5, and 9 under 35 U.S.C. 103(a) remain.

5. Applicant's arguments with respect to claims 10-23 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seth Barney whose telephone number is (571)272-4896. The examiner can normally be reached on 7:30am-5:00pm (Mon-Fri).

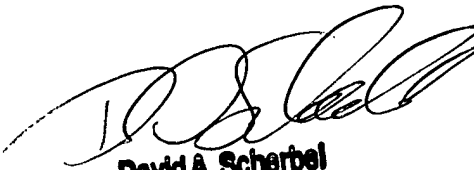
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel can be reached on (571)272-4919. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Seth Barney  
Examiner  
Art Unit 3752

sb



**David A. Scherbel**  
**Supervisory Patent Examiner**  
**Group 3700**